

Message Text

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INFO OCT-01 EUR-12 ISO-00 AID-05 CIAE-00 EB-08 FRB-01

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CEA-01 L-03 /101 W

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FM AMEMBASSY ANKARA

TO SECSTATE WASHDC 0885

INFO AMCONSUL ADANA

AMEMBASSY BRUSSELS

AMCONSUL ISTANBUL

AMCONSUL IZMIR

AMEMBASSY PARIS

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FOR ATTENTION OF DOC/INVESTMENT POLICY

E.O. 11652: N/A

TAGS: EINV, ECON, LAB, ETRD, TU

SUBJ: INFORMATION TO AID REVIEW OF INTERNATIONAL INVESTMENT POLICY:

TURKEY

REF: A) STATE 037873, B) ISTANBUL 0492, C) 77ANKARA 8119,

D) ANKARA 1331

1. FOLLOWING IS IN REPLY TO REF A.

2. INTRODUCTION: ALTHOUGH TURKEY HAS A FOREIGN INVESTMENT ENCOURAGEMENT LAW THAT IS UNUSUALLY LIBERAL BY INTERNATIONAL STANDARDS, FOREIGN

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INVESTMENT IS ENCUMBERED BY CURRENCY RESTRICTIONS, BY BUREAUCRATIC HINDRANCES, AND, MOST IMPORTANTLY, BY DISTRUST OF ITS MOTIVES AND ITS CAPACITY TO BENEFIT THE TURKISH NATION. THE FOREIGN INVESTMENT ENCOURAGEMENT LAW, LAW 6224, DATED JANUARY 18, 1954, WAS THE PRODUCT OF AN ERA IN TURKISH HISTORY THAT, FOR GOOD OR BAD, HAS COME AND GONE. LAW 6224 IS NOT PRESENTLY IMPLEMENTED IN THE SPIRIT IN WHICH IT WAS WRITTEN. IN FACT, AN UNWELCOMING ATTITUDE ON THE

PART OF THE TURKISH GOVERNMENT MORE THAN OFFSETS ANY INCENTIVES CREATED BY LAW, AND IS A MORE IMPORTANT ELEMENT OF THE FOREIGN INVESTMENT ENVIRONMENT IN TURKEY THAN ARE EXPLICIT REGULATIONS. THERE IS NOTHING TO INDICATE THAT THE PRESENT GOVERNMENT, WHICH CAME TO POWER IN JANUARY 1978, IS MORE FAVORABLY DISPOSED TO FOREIGN INVESTMENT THAN WAS ITS PREDECESSOR. NO FUNDAMENTAL CHANGE IN ATMOSPHERE IS FORESEEN.

3. INCENTIVES--ARTICLE 10 OF LAW 6224 ESTABLISHES THAT ALL RIGHTS, IMMUNITIES AND FACILITES GRANTED TO DOMESTIC ENTERPRISES WILL BE AVAILABLE ON EQUAL TERMS TO FOREIGN CAPITAL AND ENTERPRISES ENGAGED IN THE SAME FIELDS. ALL INCENTIVES TO FOREIGN INVESTMENT ARE IDENTICAL WITH INCENTIVES TO DOMESTIC TURKISH INVESTMENT, AND ARE EXTENDED TO FOREIGN INVESTORS BY ARTICLE 10. INCENTIVES ARE DETERMINED IN ANNUAL PROGRAMS WRITTEN BY THE STATE PLANNING ORGANIZATION AND APPROVED BY THE COUNCIL OF MINISTERS; PROGRAMS ARE BASED ON FIVE-YEAR PLANS, WHICH TAKE THE FORM OF LAWS PASSED BY PARLIAMENT. CONDITIONS OF ELIGIBILITY FOR INCENTIVES CAN BE SUMMARIZED AS FOLLOWS: INCENTIVES ARE GRANTED ONLY TO ENTERPRISES OPERATING IN GEOGRAPHIC REGIONS SPECIFIED IN THE ANNUAL PROGRAM; WITHIN THE SPECIFIED REGIONS THE TYPE OF PRODUCTION (FOOD PROCESSING,

MACHINERY, MANUFACTURE, ETC.) DETERMINES WHICH INCENTIVES ARE APPLICABLE, AS SPECIFIED IN THE ANNUAL PROGRAM; INVESTMENTS MAY BE MADE IN OTHER REGIONS, BUT WILL NOT, IN THAT CASE, BE ELIGIBLE FOR INCENTIVES. THE ELIGIBILITY OF A SPECIFIC ENTERPRISE FOR INCENTIVES, UNCLASSIFIED

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AND THE SPECIFIC INCENTIVES FOR WHICH IT IS ELIGIBLE, ARE SET FORTH IN THE DECREE UNDER WHICH THE INVESTMENT IS MADE. ELIGIBILITY FOR INCENTIVES IS REVIEWED AND REVISED ANNUALLY.

4. INCENTIVES FROM WHICH INVESTMENTS IN TURKEY MAY BENEFIT IN FULL OR IN PART, UNDER THE ABOVE CONDITIONS, INCLUDE EXEMPTION FROM CUSTOMS TAX, CUSTOMS TAX DEFERMENT, INVESTMENT ALLOWANCE (TAX REDUCTION), MEDIUM-TERM CREDIT SUBSIDIES, UTILIZATION OF FOREIGN PRIVATE CREDIT, AND IMPORTS WHICH FALL WITHIN THE INVESTMENT QUOTE(AFFORDS REDUCTION IN IMPORT CASH DEPOSIT AND PRIORITY IN THE ALLOCATION OF FOREIGN EXCHANGE FOR IMPORTS). AS INDICATED ABOVE, ANNUAL PROGRAMS SPECIFY WHICH OF THESE INCENTIVES WILL APPLY TO EACH TYPE OF PRODUCTION, AND INVESTMENT DECREES SPECIFY WHICH INCENTIVES MAY BE RECEIVED BY A GIVEN ENTERPRISE.

5. PERFORMANCE REQUIREMENTS--IT IS DIFFICULT TO DISCUSS PERFORMANCE REQUIREMENTS FOR FOREIGN INVESTMENTS IN TURKEY IN A COMPREHENSIVE MANNER. PERFORMANCE REQUIREMENTS ARE STIPULATED IN INDIVIDUAL INVESTMENT DECREES IN GREAT DETAIL. THEY MAY INCLUDE EXPORT REQUIREMENTS, EMPLOYMENT QUOTAS, LOCAL-CONTENT REQUIREMENTS, RETAIL-SALES LIMITATION, ETC. FAILURE TO OBSERVE THE CONDITIONS STIPULATED IN THE INVESTMENT DECREE MAY RESULT IN

CANCELLATION OF INCENTIVES OR IN REVOCATION OF THE DECREE ITSELF. AN EXAMPLE OF REVOCATION OF A DECREE IS CITED IN REF B, WHICH IS AN EXCELLENT ILLUSTRATION OF THE DIFFICULTIES FACED BY FOREIGN FIRMS IN TURKEY. LOCAL-CONTENT REQUIREMENTS ARE ESTABLISHED BY THE MINISTRY OF INDUSTRY IN A GENERAL MANNER FOR CATEGORIES OF VEHICLES, AGRICULTURAL EQUIPMENT, TELEVISION SETS AND OTHER ELECTRONIC APPLIANCES, AND TELEPHONE EQUIPMENT. (REF C) IN PRACTICE, LACITY IN ENFORCING PERFORMANCE REQUIREMENTS IS MORE LIKELY TO BE A PRODUCT OF BUREAUCRATIC INEFFICIENCY THAN OF GENEROSITY OF INTERPRETATION.

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6. PERFORMANCE REQUIREMENTS IN TURKEY HAVE BEEN INTENDED TO ENCOURAGE IMPORT SUBSTITUTION AND ECONOMIC SELF-SUFFICIENCY. OTHER OBJECTIVES, SUCH AS PROMOTING EXPORTS AND FOREIGN EXCHANGE EARNINGS, AND MAKING TURKISH INDUSTRY COMPETITIVE WITH THE EEC, ARE DECLARED IN OFFICIAL STATEMENTS AND DOCUMENTS, BUT HAVE NOT BEEN EFFECTIVELY PURSUED. THE PRESENT GOVERNMENT, LED BY PRIME MINISTER ECEVIT, HAS AFFIRMED ITS INTENTION TO ENCOURAGE EXPORTS THROUGH A WIDE VARIETY OF NEW INCENTIVES. HOW EFFECTIVELY THE GOVERNMENT WILL ACT ON THIS INTENTION REMAINS TO BE SEEN. IN TIS GENERAL ATTITUDE,

THE TURKISH GOVERNMENT, REGARDLESS OF REGIME, HAS NOT DEMONSTRATED A DESIRE THAT TURKEY PARTICIPATE IN THE WORLD MARKET SO MUCH AS A DESIRE THAT THE DEPENDENCE OF THE TURKISH ECONOMY ON OUTSIDE SOURCES BE REDUCED. AS IN EASTERN BLOC COUNTRIES, EXPORT EARNINGS

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ARE VIEWED AS A NATIONAL INCOME TO BE SPENT ON INTERNAL INVESTMENTS, AND SIMPLY AS ONE SIDE OF A TWO-WAY FLOW OF TRADE.

7. LABOR AND EMPLOYMENT ASPECTS--TURKISH LABOR LAW AND PRACTICE PROVIDE NO SPECIAL TREATMENT FOR FOREIGN INVESTORS, NO EXEMPTION FROM LEGISLATION OR REGULATIONS GOVERNING LABOR AND INDUSTRIAL/RELATIONS, NO SUBSIDIES FOR WAGE PAYMENTS OR OTHER COMPENSATION, NOR ANY INCENTIVES SUCH AS RESTRICTIONS ON TRADE UNION ACTIVITIES OR LIMITATION ON COLLECTIVE AGREEMENTS. ON THE CONTRARY, TURKISH LABOR LAW AND PRACTICE, INCLUDING THE SOCIAL INSURANCE SYSTEMS, HAVE BEEN EXPLICITLY DEVELOPED TO PROTECT THE INTERESTS OF TURKISH WORKERS AND TO PROVIDE SOCIAL BENEFITS IN A TURKISH ENVIRONMENT. FOREIGN INVESTORS MUST ABIDE BY THE SYSTEM AND ADJUST THEMSELVES TO PREVAILING PRACTICES, CERTAIN FEATURES OF WHICH ARE SOMETIME ONEROUS.

8. FOREIGN INVESTORS WILL FIND MANY FAMILIAR FEATURES IN THE TURKISH LABOR SCENE AS THE CONCEPTS WERE ORIGINALLY BORROWED FROM ABROAD, MAINLY EUROPE AND THE UNITED STATES, SUCH AS: HEALTH AND SAFETY STANDARDS, RESTRICTIONS ON EMPLOYMENT OF CHILD LABOR, METHODS OF NEGOTIATION, MEDIATION AND CONCILIATION, CHECK-OFF OF UNION DUES, MINIMUM WAGE(CURRENTLY TL3,300-\$132PER MONTH), AND SOCIAL INSURANCE PAYMENTS SHARED BETWEEN THE EMPLOYER (15.5 PERCENT) AND THE WORKER(12PERCENT) OF THE WORKERS' PAY, UP TO TL 8,000 MONTHLY-\$320-- ETC.

9. ON THE OTHER HAND, FOREIGN INVESTORS WILL FIND FEATURES TO WHICH THEY MAY NOT BE ACCUSTOMED: FOR EXAMPLE, APPROXIMATELY 25 DIFFERENT CATEGORIES OF FRINGE BENEFITS(EG ALLOWANCES FOR BIRTHS, MARRIAGE, DEATH, EDUCATION, SHOES,LUNCH, ETC.) "SOCIAL BENEFITS" (EG ALLOWANCES FOR FUEL, RELIGIOUS HOLIDAYS AND VACATIONS--SUPPLEMENTAL TO PAID ANNUAL LEAVE); BONUSES (EXTRA MONTHS'PAY PER ANNUM FROM THREE UP TO A HIGH OF 9); AND SEVERANCE PAY (AT LEAST 30-AVERAGE 45-DAYS PAY FOR EACH YEAR A WORKER HAS WORKED FOR AN EMPLOYER

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UP TO A NEGOTIATED MAXIMUM LIMIT (OR NO LIMIT) BUT AT LEAST SEVEN AND ONE-HALF TIMES THE MINIMUM WAGE; PAYMENT FOR THE "WEEKLY DAY OF REST", WHICH MEANS A MONTH IS UNIVERSALLY CALCULATED AT 30 DAYS.

10. SOME LONG-TIME PRACTICES ARE CURRENTLY BEING CONTESTED IN THE INDUSTRIAL RELATIONS SYSTEM, BUT HAVE NOT BEEN COMPLETELY ELIMIN-

ATED. CHIEF AMONG THESE IS COMPENSATION (UP TO THE FULL AMOUNTS) FOR WAGES AND BENEFITS LOST DURING THE PERIOD OF STRIKE OR LOCKOUT. GOOD LABOR LAWYERS ARE AVAILABLE IN THE CHIEF INDUSTRIAL CENTERS AND EMPLOYERS ARE WELL ADVISED TO EMPLOY THEM.

11. FOREIGN INVESTORS SHOULD ALSO BE AWARE THAT TURKISH LAW NO 2007 OF JUNE 1932 SPECIFICALLY RESERVES MOST OCCUPATIONS TO TURKISH CITIZENS. ALIENS MAY APPLY FOR WORK PERMITS, BUT THESE ARE VERY DIFFICULT TO OBTAIN AS THEY WILL NOT BE ISSUED IF A TURKISH WORKER IS AVAILABLE WITH THE REQUISITE SKILL. ONLY SPECIAL SKILLS IN SHORT SUPPLY OR NON-EXISTENT IN TURKEY WILL QUALIFY AN ALIEN FOR A WORK PERMIT. IN PRACTICE, FOREIGN INVESTORS HAVE FOUND THAT IN THE INITIAL STAGES OF PLANT CONSTRUCTION AND START-UP, THEY HAVE BEEN ALLOWED TO BRING IN ALL THE SKILLED AND PROFESSIONAL LABOR THEY NEED. ONCE IN REGULAR OPERATION, HOWEVER, THE FIRMS HAVE BEEN SHARPLY CUT BACK ON THE NUMBER OF EXPATRIATES THEY MAY EMPLOY (IN MANY CASES DOWN TO A SINGLE MANAGER ONLY).

12. THE PRINCIPLE AREA IN WHICH THE TURKISH AUTHORITIES ARE FORTH-COMING AND HELPFUL IS IN THE RECRUITMENT OF MANPOWER, ESPECIALLY IF IT IS THE INVESTORS' INTENTION TO EMPLOY THAT MANPOWER OUTSIDE OF TURKEY. THE TURKISH EMPLOYMENT SERVICE HAS PROVED TO BE EFFECTIVE IN AIDING FOREIGN EMPLOYERS, ESPECIALLY THOSE RECRUITING WORKERS FOR JOBS IN SAUDI ARABIA, KUWAIT, AND OTHER ARAB COUNTRIES.

13. MANPOWER IS AVAILABLE IN SUBSTANTIAL QUANTITY IN TURKEY BECAUSE OF WIDESPREAD UNEMPLOYMENT (OFFICIALLY ESTIMATED AT 2.3 MILLION, UNOFFICIALLY ESTIMATED BY KNOWLEDGEABLE TURKISH OFFICIALS AT OVER 5 MILLION). IT MAY BE SAID THAT MANPOWER IS TURKEY'S GREATEST ASSET, IDLENESS AMONG THAT RESERVOIR TURKEY'S GREATEST LIABILITY.
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Status: NATIVE
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TAGS: EINV, ECON, ELAB, ETRD, TU
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